

EXHIBIT 3

Deposition Transcript

Case Number: 2:24-cv-08969-GW-BFM
Date: January 28, 2025

In the matter of:

EMMETT ENRIQUES v ONLY WHAT YOU NEED, INC., et al.

Emmett Enriques - CONFIDENTIAL

ATTORNEYS' EYES ONLY

**CERTIFIED
COPY**

Reported by:
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NV: Firm #108F



EMMETT ENRIQUES - CONFIDENTIAL
JANUARY 28, 2025 A7

ATTORNEYS' EYES ONLY

JOB NO. 1392594

Case No. 2:24-cv-0896
9-GW-BFM

EMMETT ENRIQUES, individually and
on behalf of all other situated,

Plaintiffs,

vs.

10 ONLY WHAT YOU NEED, INC., a
11 Delaware Corporation; THE SIMPLE
12 GOOD FOODS COMPANY, a Delaware
Corporation; AND DOES 1 THROUGH 70,
INCLUSIVE,

Defendants.

CONFIDENTIAL - ATTORNEYS' EYES ONLY

VIDEOTAPED DEPOSITION OF

EMMETT ENRIQUES

LOS ANGELES, CALIFORNIA

TUESDAY, JANUARY 28, 2025

20 | Page

22 REPORTED BY:
RONNY ZAVOSKY
23 CSR NO. 12359
JOB NO. 1392594

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JANUARY 28, 2025

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JOB NO. 1392594

1 A P P E A R A N C E S (Continued):

2

3 FOR THE DEFENDANTS:

4

5 BRAUNHAGEY & BORDEN LLP

6 BY: David H. KWASNIEWSKI, ESQ.

7 747 Front Street, 4th Floor

8 San Francisco, California 94111

9 (415) 599-0210

10 kwasniewski@braunhagey.com

11

12

13

14 ALSO PRESENT:

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16 STEVE PETERSEN, VIDEOGRAPHER

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JANUARY 28, 2025

ATTORNEYS' EYES ONLY

JOB NO. 1392594

1

I N D E X

2

WITNESS: EMMETT ENRIQUES

3

4

EXAMINATION

PAGE

5

BY MR. KWASNIEWSKI

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7

E X H I B I T S

8

EXHIBIT NUMBER

DESCRIPTION

PAGE

9

EXHIBIT 1

- LIST OF ATTRIBUTES

24

10

EXHIBIT 2

- PRINTOUT FROM CHADDY WEBSITE - LIP
PLUMPER

51

11

EXHIBIT 3

- PRINTOUT FROM CHADDY WEBSITE -
TANNING WATER DUO PACK

52

12

EXHIBIT 4

- PRINTOUT OF LABEL FROM CHOCOLATE
PROTEIN SHAKE

74

13

EXHIBIT 5

- PRINTOUT OF LABEL FROM PREMIER
PROTEIN WEBSITE

81

14

EXHIBIT 6

- PRINTOUT OF LABEL FROM FAIRLIFE
WEBSITE

82

15

EXHIBIT 7

- PRINTOUT OF LABEL FROM BLACK SAND
BEACH APPAREL WEBSITE

103

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21

INSTRUCTED NOT TO ANSWER

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PAGE LINE

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(NONE)

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EMMETT ENRIQUES - CONFIDENTIAL
JANUARY 28, 2025

ATTORNEYS' EYES ONLY

JOB NO. 1392594

10:16:27 1 TUESDAY, JANUARY 28, 2025; LOS ANGELES, CALIFORNIA
10:16:27 2 9:49 A.M.
10:16:27 3 - - -
09:48:52 4 THE VIDEOGRAPHER: And we are now on the
09:48:53 5 record.
09:48:54 6 My name is Steve Petersen. I am a notary
09:48:57 7 public contracted by Steno. I am not financially
09:49:02 8 interested in this action, nor am I a relative or
09:49:06 9 employee of any of the attorneys or any of the parties.
09:49:12 10 Today is Tuesday, January 28th, 2025. The
09:49:17 11 time is 9:49 A.M. Pacific Time.
09:49:22 12 This deposition is taken at 515 South
09:49:26 13 Flower Street, Los Angeles, California 90071. The name
09:49:35 14 of the case is Enriques versus Only What You Need,
09:49:40 15 Incorporated et al. filed in the United States District
09:49:43 16 Court for the Central District of California,
09:49:46 17 Case Number 2:24-cv-08969-GW-BFM.
09:50:05 18 This is the video-recorded deposition of
09:50:08 19 Emmett Enriques, Volume I. The attorney taking this
09:50:12 20 deposition is David Kwasniewski.
09:50:16 21 Would counsel please identify yourselves and
09:50:18 22 state who you represent.
09:50:21 23 MR. KWASNIEWSKI: David Kwasniewski. Here on
09:50:23 24 behalf of defendants, Only What You Need Inc. and The
09:50:26 25 Simple Good Foods Company.

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JOB NO. 1392594

09:54:29 1 first time you encountered a protein shake from Only
09:54:35 2 What You Need.
09:54:36 3 And is it okay if we refer to Only What You
09:54:38 4 Need Inc. as OWYN?
09:54:42 5 A Yes.
09:54:42 6 Q When did you first buy an OWYN protein shake?
09:54:46 7 A I first purchased around last year --
09:54:51 8 February.
09:54:54 9 Q What flavor did you get?
09:54:55 10 A The first flavor that I purchased was
09:54:57 11 chocolate.
09:54:59 12 Q How did it taste?
09:55:00 13 A Good.
09:55:02 14 Q Did you buy, like, a four-pack or just one?
09:55:05 15 A Every time I've purchased, I've purchased the
09:55:07 16 tetra four-pack.
09:55:11 17 Q Okay. What did you think of the -- like,
09:55:12 18 consistency of it?
09:55:13 19 A It was good.
09:55:15 20 Q Did it taste chocolaty?
09:55:18 21 A Yes.
09:55:19 22 Q Was it really sweet?
09:55:23 23 A Yeah, it was sweet.
09:55:26 24 Q What color was it? Like, did it look
09:55:29 25 chocolaty in color?

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JOB NO. 1392594

09:55:30 1 A Inside, don't -- don't remember. I drank it
09:55:33 2 so I don't remember seeing the color.
09:55:35 3 Q Did you drink it right away, or did you sort
09:55:37 4 of wait a bit?
09:55:39 5 A After I purchased?
09:55:41 6 Q Yeah.
09:55:43 7 A Wait a bit.
09:55:45 8 Q Do you remember what store you bought it from?
09:55:48 9 A Yes. Target, as well as secondary purchase at
09:55:53 10 Whole Foods.
09:55:59 11 Q Well, let's focus still on just the very first
09:56:02 12 time you bought it.
09:56:02 13 Was that at Target or Whole Foods?
09:56:04 14 A Target.
09:56:05 15 Q Okay. Which Target?
09:56:07 16 A I believe it was West Hollywood Target.
09:56:16 17 Q And you mentioned February -- this was in
09:56:19 18 February of last year.
09:56:20 19 So that's February of 2024?
09:56:22 20 A Correct.
09:56:24 21 Q And you bought just one four-pack at that
09:56:28 22 time?
09:56:28 23 A Yes. At the time.
09:56:32 24 Q And you said -- you mentioned the secondary
09:56:35 25 purchase at Whole Foods.

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JANUARY 28, 2025

ATTORNEYS' EYES ONLY

JOB NO. 1392594

09:56:36 1 How many times could you estimate that you
09:56:38 2 purchased QWYN shakes?
09:56:40 3 A I've purchased OWYN shakes -- two to three
09:56:45 4 times. Chocolate first, chocolate and vanilla, and then
09:56:50 5 another chocolate again. I tried the chocolate. Tried
09:56:53 6 the vanilla; didn't like the vanilla as much, and then
09:56:56 7 purchased the chocolate the next time at Whole Foods.
09:57:01 8 Q So the second time you purchased vanilla was
09:57:03 9 that at Target or Whole Foods?
09:57:05 10 A Target.
09:57:06 11 Q And the last time you purchased chocolate,
09:57:07 12 that was at Whole Foods?
09:57:10 13 A Correct.
09:57:10 14 Q And which Whole Foods was that?
09:57:11 15 A West Hollywood.
09:57:18 16 Q And when was the last time you bought an OWYN
09:57:20 17 shake?
09:57:23 18 A March, last year.
09:57:28 19 Q That's 2024; right?
09:57:29 20 A Correct.
09:57:33 21 Q You haven't purchased any OWYN shakes since
09:57:36 22 then?
09:57:36 23 A No.
09:57:37 24 Q Why did you stop?
09:57:39 25 A One, because of the testing results that I

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JANUARY 28, 2025

ATTORNEYS' EYES ONLY

JOB NO. 1392594

10:05:13 1 Q So going back to the first day you purchased
10:05:15 2 the OWYN products, you mentioned you were in Target to
10:05:19 3 buy groceries.
10:05:20 4 Do you remember what else you purchased that
10:05:21 5 day?
10:05:24 6 A Besides bananas? No. But I only say bananas
10:05:27 7 because every time I go to Target, I purchase bananas.
10:05:31 8 Q Do you normally do the grocery shopping in
10:05:33 9 your household?
10:05:35 10 A Yes.
10:05:36 11 Q Do you have, like, a partner or dependents?
10:05:40 12 A No.
10:05:40 13 Q Did you live by yourself?
10:05:42 14 A No.
10:05:43 15 Q You have a roommate or?
10:05:46 16 A Yes, I do. I have three roommates currently.
10:05:53 17 Q But you guys -- you just buy your own
10:05:58 18 groceries?
10:05:58 19 A Yes.
10:06:04 20 Q The -- the OWYN shakes that you purchased,
10:06:07 21 after you drank them, what did you do with the bottle?
10:06:10 22 A Tossed them.
10:06:19 23 Q Did you ever share your OWYN shakes with any
10:06:22 24 of your roommates or anyone else?
10:06:24 25 A No.

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JANUARY 28, 2025

ATTORNEYS' EYES ONLY

JOB NO. 1392594

10:06:26 1 Q Did you ever recommend the OWYN shakes to
10:06:27 2 anyone?
10:06:28 3 A No. Sorry.
10:06:31 4 Can you repeat the question one more time?
10:06:33 5 Q Yeah. Did you ever recommend the OWYN shakes
10:06:35 6 to anyone?
10:06:35 7 A No.
10:06:47 8 Q So we talked about the chocolate and the
10:06:49 9 vanilla.
10:06:52 10 Did you ever try any other flavors, or was it
10:06:54 11 just those two?
10:06:55 12 A Just those two.
10:07:05 13 Q So you purchased the chocolate twice.
10:07:08 14 Did you notice any difference between the two
10:07:11 15 times you purchased the chocolate? Did it taste
10:07:15 16 different?
10:07:16 17 A No difference.
10:07:16 18 Q Did it have, like, a different consistency?
10:07:19 19 A No difference that I noticed.
10:07:23 20 Q Do you remember if the packaging changed any
10:07:25 21 time when you purchased them?
10:07:27 22 A From what I recall, no.
10:07:34 23 Q We touched on this a little bit earlier but
10:07:36 24 did you like the consistency of the shakes? Their sort
10:07:39 25 of thickness?

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JANUARY 28, 2025

ATTORNEYS' EYES ONLY

JOB NO. 1392594

11:22:23 1 Did you review any of the letters that your
11:22:25 2 lawyers sent prior to filing the complaint to OWYN?
11:22:30 3 A I do remember reading them, yes.
11:22:32 4 Q When did you read them?
11:22:35 5 A Around the same time that I read the
11:22:38 6 complaint.
11:22:42 7 Q And just so the record is clear, around what
11:22:44 8 time frame was that?
11:22:45 9 A I would say one or two months ago; however,
11:22:49 10 that's just reading them myself. I had prior knowledge
11:22:52 11 of them since I've been in contact with my lawyers from
11:22:56 12 the past year. So I did have an understanding of what
11:22:58 13 it was.
11:23:49 14 Q So the complaint, as you may recall, discusses
11:23:52 15 four flavors of shakes. The chocolate, vanilla --
11:24:00 16 A No Nut Peanut Butter.
11:24:01 17 Q Right.
11:24:01 18 A Sea Salt, Caramel.
11:24:03 19 Q Great. The complaint says in paragraph 5 that
11:24:09 20 you purchased the shakes at retail locations in
11:24:13 21 California, including Los Angeles County, but you never
11:24:16 22 purchased the No Nut Butter Cup; right?
11:24:19 23 A No.
11:24:19 24 Q And you never purchased the Sea Salt Caramel;
11:24:22 25 right?

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JANUARY 28, 2025

ATTORNEYS' EYES ONLY

JOB NO. 1392594

11:24:23 1 A No.

11:24:24 2 Q So, in fact, that allegation in the complaint

11:24:25 3 that you purchased all those different flavors, that's

11:24:27 4 not true, is it?

11:24:28 5 MR. GRANADE: Objection.

11:24:30 6 THE WITNESS: I just purchased two of the

11:24:32 7 flavors.

11:24:32 8 BY MR. KWASNIEWSKI:

11:25:11 9 Q Earlier we talked about the types of relief

11:25:13 10 that you were seeking in this lawsuit. We discussed

11:25:15 11 monetary relief. You also mentioned injunctive relief.

11:25:21 12 What specific injunctive relief are you

11:25:25 13 seeking with this lawsuit?

11:25:26 14 MR. GRANADE: Objection.

11:25:28 15 You may answer.

11:25:30 16 THE WITNESS: Let me first clarify that I am

11:25:32 17 in no way an expert in law, in business, and labeling

11:25:38 18 products. However, when I say injunctive relief, my --

11:25:45 19 the main meaning behind that, it means to be -- the

11:25:49 20 labels re- -- how do I put this? I'd like to see the

11:25:55 21 labels not mislabeled and to be changed to reflect what

11:25:58 22 is actually in the product.

11:25:59 23 BY MR. KWASNIEWSKI:

11:26:12 24 Q So just so that I understand, you are not

11:26:19 25 asking for the formula of the product to be changed?

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JANUARY 28, 2025

ATTORNEYS' EYES ONLY

JOB NO. 1392594

11:43:38 1 other class members to not receive any money if you and
11:43:41 2 your lawyers receive money; right?

11:43:43 3 A I -- I think that the other class members
11:43:45 4 should receive money. Yes.

11:44:40 5 MR. KWASNIEWSKI: I'm going to show you what
11:44:41 6 we'll mark for identification is Exhibit 4.

11:44:48 7 (Exhibit 4 was marked for identification.)

11:45:29 8 BY MR. KWASNIEWSKI:

11:45:30 9 Q Does Exhibit 4 look like the label on the
11:45:32 10 chocolate protein shake that you purchased?

11:45:35 11 A No.

11:45:36 12 Q What's different?

11:45:38 13 A Serving side -- size; food ounces; type of
11:45:42 14 packaging; shape of packaging. That's as far as I can
11:45:50 15 go.

11:46:15 16 Q So you did not purchase the Elite Pro
11:46:17 17 Chocolate in the 355-milliliter configuration?

11:46:20 18 A I believe -- no. I did not.

11:46:23 19 Q Which OWYN chocolate shake did you purchase?

11:46:28 20 A The -- it's either 335 or 330. Off the top of
11:46:33 21 my head, I can't remember, but it's not -- it's not this
11:46:36 22 bottle shape.

11:47:03 23 Q And same question for the vanilla shake.

11:47:05 24 Did you buy the 355-milliliter or 335?

11:47:09 25 A Same as the chocolate.

EMMETT ENRIQUES - CONFIDENTIAL
JANUARY 28, 2025

ATTORNEYS' EYES ONLY

JOB NO. 1392594

Page 110		Page 111
1	DECLARATION UNDER PENALTY OF PERJURY	1 I, RONNY ZAVOSKY, CSR No. 12359, certify that
2		2 the foregoing proceedings were taken before me at the
3	I, the undersigned, declare under penalty of	3 time and place therein set forth, at which time the
4	perjury that I have read the entire foregoing transcript	4 witness was duly sworn and that the transcript is the
5	of my deposition or the same has been read to me, and	5 true record of the testimony so given;
6	the same is true and accurate, save and except for	6
7	changes, corrections, additions or deletions indicated	7 Witness review, correction and signature
8	by me on the DEPOSITION ERRATA SHEET hereof, with the	8 (X) shall be per venue code () was requested
9	understanding that I offer these changes as if still	9 () was not requested () was waived
10	under oath.	10 () not handled by the deposition officer due to
11		11 party stipulation
12	Signed on the <u>14th</u> day of <u>March</u> , <u>2025</u> ,	12
13	at <u>Mammoth Lakes</u> , <u>California</u> .	13 The dismantling, unsealing, or unbinding of
14	(City) (State)	14 the original transcript will render the reporter's
15		15 certificate null and void.
16		16 I further certify that I am not financially
17		17 interested in the action, and I am not a relative or
18		18 employee of any attorney of the parties, nor of any of
19		19 the parties.
20		20 Dated this 7th day of February, 2025.
21		21
22		22
23		23
24		24
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Page 112		
1	ERRATA SHEET	
2	CHANGES IN TESTIMONY	
3	EMMETT ENRIQUES v ONLY WHAT YOU NEED, INC., et al.	
4	Emmett Enriques - CONFIDENTIAL	
5	January 28, 2025	
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24	SIGNATURE: <u>Emmett Enriques</u>	DATE: <u>3/14/2025</u>
25	Emmett Enriques - CONFIDENTIAL	

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JANUARY 28, 2025

ATTORNEYS' EYES ONLY

JOB NO. 1392594

1 I, RONNY ZAVOSKY, CSR No. 12359, certify that
2 the foregoing proceedings were taken before me at the
3 time and place therein set forth, at which time the
4 witness was duly sworn and that the transcript is the
5 true record of the testimony so given;

6

7 Witness review, correction and signature

8 (X) shall be per venue code () was requested
9 () was not requested () was waived
10 () not handled by the deposition officer due to
11 party stipulation

12

13 The dismantling, unsealing, or unbinding of
14 the original transcript will render the reporter's
15 certificate null and void.

16 I further certify that I am not financially
17 interested in the action, and I am not a relative or
18 employee of any attorney of the parties, nor of any of
19 the parties.

20 Dated this 7th day of February, 2025.

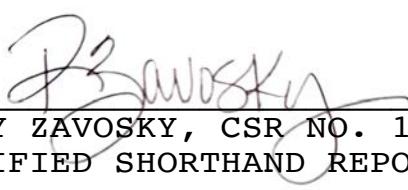
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RONNY ZAVOSKY, CSR NO. 12359
CERTIFIED SHORTHAND REPORTER



DieLine #	20559	Round No.	2	Die Description	
FILENAME	STEUBEN_12oz Bottle on Clear	Prepress	TD	Clear/Substrate	Die Lines
OVERALL DIMENSIONS	221mm x 183mm	Engineer	BE	Ink Limits	Fold Lines
REVERSE PRINT ON CLEAR FILM				Text Area	Perf Lines
				Wrap Lines	Ink Limits
				Seam Overlap	Copy Limits

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